

PROVIDING FOR CONSIDERATION OF H.R. 3717,  
BROADCAST DECENCY ENFORCEMENT ACT OF 2004

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MARCH 10, 2004.—Referred to the House Calendar and ordered to be printed

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Mrs. MYRICK, from the Committee on Rules,  
submitted the following

R E P O R T

[To accompany H. Res. 554]

The Committee on Rules, having had under consideration House Resolution 554, by a record vote of 9 to 2, reports the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3717, the Broadcast Decency Enforcement Act of 2004, under a structured rule. The rule provides ninety minutes of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill shall be considered as an original bill for the purpose of amendment, and shall be considered as read. The rule waives all points of order against the Committee amendment in the nature of a substitute.

The rule makes in order only those amendments to the Committee amendment in the nature of a substitute which are printed in this report, and provides that those amendments may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments

printed in this report. Finally, the rule provides one motion to re-commit with or without instructions.

#### COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

#### *Rules Committee record vote No. 224*

Date: March 10, 2004.

Measure: H.R. 3717, the Broadcast Decency Enforcement Act of 2004.

Motion by: Mr. Linder.

Summary of motion: To report the resolution.

Results: Agreed to 9 to 2.

Vote by Members: Linder—Yea; Pryce—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Myrick—Yea; Reynolds—Yea; Frost—Yea; Slaughter—Yea; McGovern—Nay; Hastings (FL)—Nay; Dreier—Yea.

#### SUMMARY OF AMENDMENTS MADE IN ORDER

(1) Upton: Manager's Amendment. Ensures that the bill preserves the right of a licensee to appeal a forfeiture order issued by the FCC for the broadcast of obscene, indecent, or profane material before the existence of such an order can be used in a license application or assignment proceeding to determine a licensee's character or qualifications, in a license renewal proceeding to determine whether a serious violation has occurred, or in a license revocation proceeding initiated after a licensee has accumulated three or more such forfeiture orders during the term of a license. Additionally, the amendment requires the FCC to provide Congress with information related to the number of times that violators refuse to pay a forfeiture order and that the FCC refers such orders for collection. (20 minutes)

(2) Sessions: Directs the GAO to study and report back within one year: the number of complaints concerning the broadcasting of obscene, indecent, and profane material to the Federal Communications Commission; the number of such complaints that result in final agency actions by the Commission; the length of time taken by the Commission in responding to such complaints; what mechanisms the Commission has established to receive, investigate, and respond to such complaints; and whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints. (10 minutes)

(3) Schakowsky: Provides that the provision in the bill that would increase the fines from \$11,000 to \$500,000 shall not apply to individuals. (20 minutes)

#### TEXT OF AMENDMENTS MADE IN ORDER

##### 1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE UPTON OF MICHIGAN, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

In subsection (d) of section 503 of the Communications Act of 1934, as added by section 7 of the bill, strike paragraph (2) and insert the following:

“(2) a court of competent jurisdiction has ordered payment of such forfeiture penalty, and such order has become final,

In the matter that follows paragraph (2) of section 503(d) of the Communications Act of 1934, as added by section 7 of the bill, strike “, notwithstanding section 504(c),”.

In paragraph (5) of section 309(k) of the Communications Act of 1934, as added by section 8 of the bill, strike subparagraph (B) and insert the following:

“(B) a court of competent jurisdiction has ordered payment of such forfeiture penalty, and such order has become final,

In the matter that follows subparagraph (B) of section 309(k)(5) of the Communications Act of 1934, as added by section 8 of the bill, strike “, notwithstanding section 504(c),”.

In paragraph (1) of section 312(h) of the Communications Act of 1934, as added by section 9 of the bill, strike subparagraph (B) and insert the following:

“(B) a court of competent jurisdiction has ordered payment of such forfeiture penalty, and such order has become final,

In the matter that follows subparagraph (B) of section 312(h)(1) of the Communications Act of 1934, as added by section 9 of the bill, strike “, notwithstanding section 504(c),”.

In section 10, insert “and” at the end of subparagraph (C) of paragraph (7), strike “; and” at the end of subparagraph (D) of such paragraph and insert a period, strike subparagraph (E) of such paragraph, and after such paragraph insert the following new paragraphs:

(8) In instances where the licensee has refused to pay, whether the Commission referred such order to the Department of Justice to collect the penalty.

(9) In cases where the Commission referred such order to the Department of Justice—

(A) the number of days from the date the Commission issued such order to the date the Commission referred such order to the Department;

(B) whether the Department has commenced an action to collect the penalty, and if such action was commenced, the number of days from the date the Commission referred such order to the Department to the date the action by the Department commenced; and

(C) whether the collection action resulted in a payment, and if such action resulted in a payment, the amount of such payment.

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## 2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SESSIONS OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 10 of the bill insert the following section (and redesignate the succeeding sections accordingly):

### **SEC. 11. GAO STUDY OF INDECENT BROADCASTING COMPLAINTS.**

(a) INQUIRY AND REPORT REQUIRED.—The General Accounting Office shall conduct a study examining—

(1) the number of complaints concerning the broadcasting of obscene, indecent, and profane material to the Federal Communications Commission;

(2) the number of such complaints that result in final agency actions by the Commission;

(3) the length of time taken by the Commission in responding to such complaints;

(4) what mechanisms the Commission has established to receive, investigate, and respond to such complaints; and

(5) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints.

(b) SUBMISSION OF REPORT.—The General Accounting Office shall submit a report on the results of such study within one year after the date of enactment of this Act to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCHAKOWSKY OF ILLINOIS, OR HER DESIGNEE, DEBATABLE FOR 20 MINUTES

In section 503(b)(2)(D) of the Communications Act of 1934, as amended by section 2(3)(B) of the bill, after “each violation” insert the following: “, except that this sentence shall not apply if the violator is an individual”.